

CHAPTER NO. 855

HOUSE BILL NO. 2385

By Representatives Curtiss, Walker, Winningham, Davidson, Vincent, DuBois, Matheny, Phillip Johnson, Sontany, McDonald, Russell Johnson

Substituted for: Senate Bill No. 2979

By Senators Burks, McNally, Kurita, Kilby

AN ACT to amend Tennessee Code Annotated, Title 68, relative to the inspection, testing and quarantine of property where methamphetamine was manufactured.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 68, is amended by adding Sections 2 through 7 of this act as a new part.

SECTION 2. As used in this part, the "commissioner" means the commissioner of environment and conservation.

SECTION 3. The commissioner shall compile and maintain a list of certified industrial hygienists and such other persons or entities as the commissioner certifies as qualified to perform the services of industrial hygienists. The commissioner shall also compile and maintain a list of persons authorized to perform clean-up of hazardous waste sites, including but not limited to property used to manufacture methamphetamine. Such property may include, but is not limited to, leased or rented property such as a hotel or motel room, rented home or apartment, or any residential property. Such lists may also be posted on the website maintained by the commissioner.

SECTION 4.

(a) The combination of substances necessary for the manufacture of methamphetamine is declared to be a hazardous substance pursuant to section 68-131-102 (9) (A).

(b) Any property, or any structure or room in any structure on any property wherein the manufacture of a controlled substance listed in § 39-17-408(d)(2) is occurring or has occurred, may be quarantined by the local law enforcement agency where such property is located. The law enforcement agency which quarantines the property shall be responsible for posting signs indicating that the property has been quarantined and, to the extent they can be reasonably identified, for notifying all parties having any right, title or interest in the quarantined property, including any lienholders.

(c)

(1) Any person who has an interest in property quarantined pursuant to this section may file a petition in the general sessions, criminal, circuit or chancery court of the county in which the property is located. Such a petition shall be for the purpose of requesting that the court order the quarantine of such property be lifted for one of the following reasons:

(A) That the property was wrongfully quarantined; or

(B) That the property has been properly cleaned, all hazardous materials removed and that it is now safe for human use but the law enforcement agency who imposed the quarantine refuses to lift it.

(2) The court shall take such proof as it deems necessary to rule upon a petition filed pursuant to this section and, after hearing such proof, may grant the petition and lift the quarantine or deny the petition and keep the quarantine in place.

SECTION 5. The commissioner is authorized to promulgate rules concerning the inspection, testing and quarantine of the property.

SECTION 6. Once the property has been quarantined, any party having a right, title or interest in the quarantined property, including any lienholders, may contact either a certified industrial hygienist or other person or entity certified as qualified from the list maintained by the commissioner to perform appropriate testing on the property to determine whether hazardous waste is present on the property, or a contractor from the list maintained by the commissioner for clean-up and removal of all hazardous waste from the property. The property must remain quarantined until a certified industrial hygienist or other person or entity named on the commissioner's list compiled pursuant to Section 3 certifies to the quarantining agency that the property is safe for human use.

SECTION 7. Any inspection, testing or quarantine conducted pursuant to this act shall be considered when calculating the appropriate restitution under § 39-17-417 (c)(2)(B).

SECTION 8. For the purpose of promulgating rules, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect July 1, 2004, the public welfare requiring it.

PASSED: May 20, 2004


JIMMY RAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES


JOHN S. WILDER
SPEAKER OF THE SENATE

APPROVED this 8th day of June 2004


PHIL BREDEZEN, GOVERNOR